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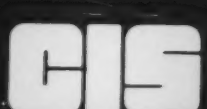

102D CONGRESS
1st Session
HOUSE OF REPRESENTATIVES
REPORT
102-337

ANDEAN TRADE PREFERENCE ACT

NOVEMBER 19, 1991.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. ROSTENKOWSKI, from the Committee on Ways and Means, submitted the following

REPORT

[To accompany H.R. 661]

[Including cost estimate of the Congressional Budget Office]

The Committee on Ways and Means, to whom was referred the bill (H.R. 661) to provide special benefits for the Andean nations, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Andean Trade Preference Act".

SEC. 2. AUTHORITY TO GRANT DUTY-FREE TREATMENT.

The President may proclaim duty-free treatment for all eligible articles from any beneficiary country in accordance with the provisions of this Act.

SEC. 3. BENEFICIARY COUNTRY.

(a) DEFINITIONS.—For purposes of this Act—

(1) The term "beneficiary country" means any country listed in subsection (b)(1) with respect to which there is in effect a proclamation by the President designating such country as a beneficiary country for purposes of this Act.

(2) The term "entered" means entered, or withdrawn from warehouse for consumption, in the customs territory of the United States.

(3) The term "HTS" means Harmonized Tariff Schedule of the United States.

(b) COUNTRIES ELIGIBLE FOR DESIGNATION; CONGRESSIONAL NOTIFICATION.—(1) In designating countries as beneficiary countries under this Act, the President shall consider only the following countries or successor political entities: Bolivia; Ecuador; Colombia; and Peru.

(2) Before the President designates any country as a beneficiary country for purposes of this Act, he shall notify the House of Representatives and the Senate of his intention to make such designation, together with the considerations entering into such decision.

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(c) LIMITATIONS ON DESIGNATION.—The President shall not designate any country a beneficiary country under this Act—

(1) if such country is a Communist country;

(2) if such country—

(A) has nationalized, expropriated or otherwise seized ownership or control of property owned by a United States citizen or by a corporation, partnership, or association which is 50 percent or more beneficially owned by United States citizens,

(B) has taken steps to repudiate or nullify—

(i) any existing contract or agreement with, or

(ii) any patent, trademark, or other intellectual property of,

a United States citizen or a corporation, partnership, or association, which is 50 percent or more beneficially owned by United States citizens, the effect of which is to nationalize, expropriate, or otherwise seize ownership or control of property so owned, or

(C) has imposed or enforced taxes or other exactions, restrictive maintenance or operational conditions, or other measures with respect to property so owned, the effect of which is to nationalize, expropriate, or otherwise seize ownership or control of such property, unless the President determines that—

(i) prompt, adequate, and effective compensation has been or is being made to such citizen, corporation, partnership, or association,

(ii) good-faith negotiations to provide prompt, adequate, and effective compensation under the applicable provisions of international law are in progress, or such country is otherwise taking steps to discharge its obligations under international law with respect to such citizen, corporation, partnership, or association, or

(iii) a dispute involving such citizen, corporation, partnership, or association, over compensation for such a seizure has been submitted to arbitration under the provisions of the Convention for the Settlement of Investment Disputes, or in another mutually agreed upon forum, and promptly furnishes a copy of such determination to the Senate and House of Representatives;

(3) if such country fails to act in good faith in recognizing as binding or in enforcing arbitral awards in favor of United States citizens or a corporation, partnership, or association which is 50 percent or more beneficially owned by United States citizens, which have been made by arbitrators appointed for each case or by permanent arbitral bodies to which the parties involved have submitted their dispute;

(4) if such country affords preferential treatment to the products of a developed country, other than the United States, and if such preferential treatment has, or is likely to have, a significant adverse effect on United States commerce, unless the President—

(A) has received assurances satisfactory to him that such preferential treatment will be eliminated or that action will be taken to assure that there will be no such significant adverse effect, and

(B) reports those assurances to the Congress;

(5) if a government-owned entity in such country engages in the broadcast of copyrighted material, including films or television material, belonging to United States copyright owners without their express consent or such country fails to work towards the provision of adequate and effective protection of intellectual property rights;

(6) unless such country is a signatory to a treaty, convention, protocol, or other agreement regarding the extradition of United States citizens; and

(7) if such country has not or is not taking steps to afford internationally recognized worker rights (as defined in section 502(a)(4) of the trade Act of 1974) to workers in the country (including any designated zone in that country).

Paragraphs (1), (2), (3), (5), and (7) shall not prevent the designation of any country as a beneficiary country under this Act if the President determines that such designation will be in the national economic or security interest of the United States and reports such determination to the Congress with his reasons therefor.

(d) FACTORS AFFECTING DESGINATION.—In determining whether to designate any country a beneficiary country under this Act, the President shall take into account—

(1) an expression by such country of its desire to be so designated;

(2) the economic conditions in such country, the living standards of its inhabitants, and any other economic factors which he deems appropriate;

(3) the extent to which such country has assured the United States it will provide equitable and reasonable access to the markets and basic commodity resources of such country;

(4) the degree to which such country follows the accepted rules of international trade provided for under the General Agreement on Tariffs and Trade, as well as applicable trade agreements approved under section 2(a) of the Trade Agreements Act of 1979;

(5) the degree to which such country uses export subsidies or imposes export performance requirements or local content requirements which distort international trade;

(6) the degree to which the trade policies of such country as they relate to other beneficiary countries are contributing to the revitalization of the region;

(7) the degree to which such country is undertaking self-help measures to protect its own economic development;

(8) whether or not such country has taken or is taking steps to afford to workers in that country (including any designated zone in that country) internationally recognized worker rights;

(9) the extent to which such country provides under its law adequate and effective means for foreign nationals to secure, exercise, and enforce exclusive rights in intellectual property, including patent, trademark, and copyright rights;

(10) the extent to which such country prohibits its nationals from engaging in the broadcast of copyrighted material, including films or television material, belonging to United States copyright owners without their express consent;

(11) whether such country has met the narcotics cooperation certification criteria set forth in section 481(h)(2)(A) of the Foreign Assistance Act of 1961 for eligibility for United States assistance; and

(12) the extent to which such country is prepared to cooperate with the United States in the administration of the provisions of this Act.

(e) WITHDRAWAL OR SUSPENSION OF DESIGNATION.—(1) The President may—

(A) withdraw or suspend the designation of any country as a beneficiary country, or

(B) withdraw, suspend, or limit the application of duty-free treatment under this Act to any article of any country,

if, after such designation, the President determines that as a result of changed circumstances such a country should be barred from designation as a beneficiary country.

(2)(A) The President shall publish in the Federal Register notice of the action the President proposes to take under paragraph (1) at least thirty days before taking such action.

(B) The United States Trade Representative shall, within the thirty-day period beginning on the date on which the President publishes under subparagraph (A) notice of proposed action—

(i) accept written comments from the public regarding such proposed action,

(ii) hold a public hearing on such proposed action, and

(iii) publish in the Federal Register—

(I) notice of the time and place of such hearing prior to the hearing, and

(II) the time and place at which such written comments will be accepted.

(f) TRIENNIAL REPORT.—On or before the third, sixth, and ninth anniversaries of the date of the enactment of this Act, the President shall submit to the Congress a complete report regarding the operation of this Act, including the results of a general review of beneficiary countries based on the considerations described in subsections (c) and (d). In reporting on the considerations described in subsection (d)(11), the President shall report any evidence that the crop eradication and crop substitution efforts of the beneficiary are directly related to the effects of this Act.

SEC. 4. ELIGIBLE ARTICLES.

(a) IN GENERAL.—(1) Unless otherwise excluded from eligibility by this Act, the duty-free treatment provided under this Act shall apply to any article which is the growth, product, or manufacture of a beneficiary country if—

(A) that article is imported directly from a beneficiary country into the customs territory of the United States; and

(B) the sum of—

(i) the cost or value of the materials produced in a beneficiary country or two or more beneficiary countries under this Act, or a beneficiary country under the Caribbean Basin Economic Recovery Act or two or more such countries, plus

(ii) the direct costs of processing operations performed in a beneficiary country or countries (under this Act or the Caribbean Basin Economic Recovery Act),

is not less than 35 per centum of the appraised value of such article at the time it is entered.

For purposes of determining the percentage referred to in subparagraph (B), the term "beneficiary country" includes the Commonwealth of Puerto Rico and the United States Virgin Islands. If the cost or value of materials produced in the customs territory of the United States (other than the Commonwealth of Puerto Rico) is included with respect to an article to which this paragraph applies, an amount not to exceed 15 per centum of the appraised value of the article at the time it is entered that is attributed to such United States cost or value may be applied toward determining the percentage referred to in subparagraph (B).

(2) The Secretary of the Treasury shall prescribe such regulations as may be necessary to carry out subsection (a) including, but not limited to, regulations providing that, in order to be eligible for duty-free treatment under this Act, an article must be wholly the growth, product, or manufacture of a beneficiary country, or must be a new or different article of commerce which has been grown, produced, or manufactured in the beneficiary country; but no article or material of a beneficiary country shall be eligible for such treatment by virtue of having merely undergone—

(A) simple combining or packaging operations, or

(B) mere dilution with water or mere dilution with another substance that does not materially alter the characteristics of the article.

(3) As used in this subsection, the phrase "direct costs of processing operations" includes, but is not limited to—

(A) all actual labor costs involved in the growth, production, manufacture, or assembly of the specific merchandise, including fringe benefits, on-the-job training and the cost of engineering, supervisory, quality control, and similar personnel; and

(B) dies, molds, tooling, and depreciation on machinery and equipment which are allocable to the specific merchandise.

Such phrase does not include costs which are not directly attributable to the merchandise concerned or are not costs of manufacturing the product, such as (i) profit, and (ii) general expense of doing business which are either not allocable to the specific merchandise or are not related to the growth, production, manufacture, or assembly of the merchandise, such as administrative salaries, casualty and liability insurance, advertising, interest, and salesmen's salaries, commissions or expenses.

(4) If the President, pursuant to section 223 of the Caribbean Basin Economic Recovery Expansion Act of 1990, considers that the implementation of revised rules of origin for products of beneficiary countries designated under the Caribbean Basin Economic Recovery Act (19 U.S.C. 2701 et seq.) would be appropriate, the President may include similarly revised rules of origin for products of beneficiary countries designated under this Act in any suggested legislation transmitted to the Congress that contains such rules of origin for products of beneficiary countries under the Caribbean Basin Economic Recovery Act.

(b) EXCEPTIONS TO DUTY-FREE TREATMENT.—The duty-free treatment provided under this Act shall not apply to—

(1) textile and apparel articles which are subject to textile agreements;

(2) footwear not designated at the time of the effective date of this Act as eligible for the purpose of the generalized system of preferences under title V of the Trade Act of 1974;

(3) tuna, prepared or preserved in any manner, in airtight containers;

(4) petroleum, or any product derived from petroleum, provided for in headings 2709 and 2710 of the HTS;

(5) watches and watch parts (including cases, bracelets and straps), of whatever type including, but not limited to, mechanical, quartz digital or quartz analog, if such watches or watch parts contain any material which is the product of any country with respect to which HTS column 2 rates of duty apply;

(6) articles to which reduced rates of duty apply under subsection (c);

(7) sugars, syrups, and molasses classified in subheadings 1701.11.03, 1701.12.02, 1701.99.02, 1702.90.32, 1806.10.42, and 2106.90.12 of the HTS; or

(8) rum and tafia classified in subheading 2208.40.00 of the HTS.

(c) DUTY REDUCTIONS FOR CERTAIN GOODS.—(1) Subject to paragraph (2), the President shall proclaim reductions in the rates of duty on handbags, luggage, flat goods, work gloves, and leather wearing apparel that—

(A) are the product of any beneficiary country; and

(B) were not designated on August 5, 1983, as eligible articles for purposes of the generalized system of preferences under title V of the Trade Act of 1974.

(2) The reduction required under paragraph (1) in the rate of duty on any article shall—

(A) result in a rate that is equal to 80 percent of the rate of duty that applies to the article on December 31, 1991, except that, subject to the limitations in paragraph (3), the reduction may not exceed 2.5 percent ad valorem; and

(B) be implemented in five equal annual stages with the first ⅕ of the aggregate reduction in the rate of duty being applied to entries, or withdrawals from warehouse for consumption, of the article on or after January 1, 1992.

(3) The reduction required under this subsection with respect to the rate of duty on any article is in addition to any reduction in the rate of duty on that article that may be proclaimed by the President as being required or appropriate to carry out any trade agreement entered into under the Uruguay Round of trade negotiations; except that if the reduction so proclaimed—

(A) is less than 1.5 percent ad valorem, the aggregate of such proclaimed reduction and the reduction under this subsection may not exceed 3.5 percent ad valorem, or

(B) is 1.5 percent ad valorem or greater, the aggregate of such proclaimed reduction and the reduction under this subsection may not exceed the proclaimed reduction plus 1 percent ad valorem.

(d) SUSPENSION OF DUTY-FREE TREATMENT.—(1) The President may by proclamation suspend the duty-free treatment provided by this Act with respect to any eligible article and may proclaim a duty rate for such article if such action is proclaimed under chapter 1 of title II of the Trade Act of 1974 or section 232 of the Trade Expansion Act of 1962.

(2) In any report by the United States International Trade Commission to the President under section 202(f) of the Trade Act of 1974 regarding any article for which duty-free treatment has been proclaimed by the President pursuant to this Act, the Commission shall state whether and to what extent its findings and recommendations apply to such article when imported from beneficiary countries.

(3) For purposes of section 203 of the Trade Act of 1974, the suspension of the duty-free treatment provided by this Act shall be treated as an increase in duty.

(4) No proclamation providing solely for a suspension referred to in paragraph (3) of this subsection with respect to any article shall be taken under section 203 of the Trade Act of 1974 unless the United States International Trade Commission, in addition to making an affirmative determination with respect to such article under section 202(b) of the Trade Act of 1974, determines in the course of its investigation under such section that the serious injury (or threat thereof) substantially caused by imports to the domestic industry producing a like or directly competitive article results from the duty-free treatment provided by this Act.

(5)(A) Any action taken under section 203 of the Trade Act of 1974 that is in effect when duty-free treatment is proclaimed under section 2 shall remain in effect until modified or terminated.

(B) If any article is subject to any such action at the time duty-free treatment is proclaimed under section 2, the President may reduce or terminate the application of such action to the importation of such article from beneficiary countries prior to the otherwise scheduled date on which such reduction or termination would occur pursuant to the criteria and procedures of section 204 of the Trade Act of 1974.

(e) EMERGENCY RELIEF WITH RESPECT TO PERISHABLE PRODUCTS.—(1) If a petition is filed with the United States International Trade Commission pursuant to the provisions of section 201 of the Trade Act of 1974 regarding a perishable product and alleging injury from imports from beneficiary countries, then the petition may also be filed with the Secretary of Agriculture with a request that emergency relief be granted pursuant to paragraph (3) of this subsection with respect to such article.

(2) Within fourteen days after the filing of a petition under paragraph (1) of this subsection—

(A) if the Secretary of Agriculture has reason to believe that a perishable product from a beneficiary country is being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industry producing a perishable product like or directly competitive with the imported product and that emergency action is warranted, he shall advise the President and recommend that the President take emergency action; or

(B) the Secretary of Agriculture shall publish a notice of his determination not to recommend the imposition of emergency action and so advise the petitioner.

(3) Within seven days after the President receives a recommendation from the Secretary of Agriculture to take emergency action pursuant to paragraph (2) of this subsection, he shall issue a proclamation withdrawing the duty-free treatment provided by this Act or publish a notice of his determination not to take emergency action.

(4) The emergency action provided by paragraph (3) of this subsection shall cease to apply—

(A) upon the taking of action under section 203 of the Trade Act of 1974,

(B) on the day a determination by the President not to take action under section 203(b)(2) of such Act becomes final,

(C) in the event of a report of the United States International Trade Commission containing a negative finding, on the day of the Commission's report is submitted to the President, or

(D) whenever the President determines that because of changed circumstances such relief is no longer warranted.

(5) For purposes of this subsection, the term "perishable product" means—

(A) live plants and fresh cut flowers provided for in chapter 6 of the HTS;

(B) fresh or chilled vegetables provided for in headings 0701 through 0709 (except subheading 0709.52.00) and heading 0714 of the HTS;

(C) fresh fruit provided for in subheadings 0804.20 through 0810.90 (except citrons of subheadings 0805.90.00, tamarinds and kiwi fruit of subheading 0810.90.20, and cashew apples, mameyes colorados, sapodillas, soursops and sweetsops of subheading 0810.90.40) of the HTS; or

(D) concentrated citrus fruit juice provided for in subheadings 2009.11.00, 2009.19.40, 2009.20.40, 2009.30.20, and 2009.30.60 of the HTS.

(f) SECTION 22 FEES.—No proclamation issued pursuant to this Act shall affect fees imposed pursuant to section 22 of the Agricultural Adjustment Act of 1933 (7 U.S.C. 624).

SEC. 5. RELATED AMENDMENTS.

(a) INCREASE IN DUTY-FREE TOURIST ALLOWANCE.—Note 4 to subchapter IV of chapter 98 of the HTS is amended by inserting before the period the following: "or a country designated as a beneficiary country under the Andean Trade Preference Act".

(b) TREATMENT OF INSULAR POSSESSIONS PRODUCTS.—General Note 3(a)(iv) of the HTS (relating to products of the insular possessions) is amended by adding at the end thereof the following:

"(E) Subject to the provisions in section 4 of the Andean Trade Preference Act, goods which are imported from insular possessions of the United States shall receive duty treatment no less favorable than the treatment afforded such goods when they are imported from a beneficiary country under such Act.".

SEC. 6. INTERNATIONAL TRADE COMMISSION REPORTS ON IMPACT OF THE ANDEAN TRADE PREFERENCE ACT.

(a) IN GENERAL.—The United States International Trade Commission (hereinafter in this section referred to as the "Commission") shall prepare, and submit to the Congress, a report regarding the economic impact of this Act on United States industries and consumers, and, in conjunction with other agencies, the effectiveness of this Act in promoting drug-related crop eradication and crop substitution efforts of the beneficiary countries, during—

(1) the twenty-four-month period beginning with the date of enactment of this Act; and

(2) each calendar year occurring thereafter until duty-free treatment under this Act is terminated under section 8(b). For purposes of this section, industries in the Commonwealth of Puerto Rico and the insular possessions of the United States shall be considered to be United States industries.

(b) REPORT REQUIREMENTS.—(1) Each report required under subsection (a) shall include, but not be limited to, an assessment by the Commission regarding—

(A) the actual effect, during the period covered by the report, of this Act on the United States economy generally as well as on those specific domestic industries which produce articles that are like, or directly competitive with, articles being imported into the United States from beneficiary countries;

(B) the probable future effect that this Act will have on the United States economy generally, as well as on such domestic industries, before the provisions of this Act terminate; and

(C) the estimated effect that this Act has had on the drug-related crop eradication and crop substitution efforts of the beneficiary countries.

(2) In preparing the assessments required under paragraph (1), the Commission shall, to the extent practicable—

(A) analyze the production, trade and consumption of United States products affected by this Act, taking into consideration employment, profit levels, and use of productive facilities with respect to the domestic industries concerned, and such other economic factors in such industries as it considers relevant, including prices, wages, sales, inventories, patterns of demand, capital investment, obsolescence of equipment, and diversification of production; and

(B) describe the nature and extent of any significant change in employment, profit levels, and use of productive facilities, and such other conditions as it deems relevant in the domestic industries concerned, which it believes are attributable to this Act.

(c) SUBMISSION DATES; PUBLIC COMMENT.—(1) Each report required under subsection (a) shall be submitted to the Congress before the close of the nine-month period beginning on the day after the last day of the period covered by the report.

(2) The Commission shall provide an opportunity for the submission by the public, either orally or in writing, or both, of information relating to matters that will be addressed in the reports.

SEC. 7. IMPACT STUDY BY SECRETARY OF LABOR.

The Secretary of Labor, in consultation with other appropriate Federal agencies, shall undertake a continuing review and analysis of the impact that the implementation of the provisions of this Act has with respect to United States labor; and shall make an annual written report to Congress on the results of such review and analysis.

SEC. 8. EFFECTIVE DATE AND TERMINATION OF DUTY-FREE TREATMENT.

(a) EFFECTIVE DATE.—This Act shall take effect on the date of enactment.

(b) TERMINATION OF DUTY-FREE TREATMENT.—No duty-free treatment extended to beneficiary countries under this Act shall remain in effect ten years after the date of the enactment of this Act.

BACKGROUND AND PURPOSE

On July 23, 1990, President Bush announced that he would seek Congressional approval for a special tariff preference regime for four Andean countries—Bolivia, Ecuador, Colombia, and Peru—patterned after the trade benefits provided under the Caribbean Basin Initiative (CBI). On October 5, 1990, the President transmitted to Congress proposed implementing legislation, to be part of a package of measures that build on the "Enterprise for the Americas Initiative" announced by the President on June 27, 1990.

Specifically, the measures are designed to fulfill the President's commitment at the Cartagena Summit to expand economic alternatives for these four Andean countries that have been fighting to eliminate the production, processing, and shipment of illegal drugs. In addition to tariff preferences, the measures include expanded agricultural development assistance, additional product coverage under the Generalized System of Preferences (GSP) program, and negotiation of long-term trade and investment liberalization concurrent with the transitional preferential tariff regime.

H.R. 661, as amended, includes preferential trade benefits for the Andean countries that are very similar to the benefits for Caribbean Basin countries under the Caribbean Basin Economic Recovery Act (CBERA), as well as certain additional benefits provided the CBI countries under the Caribbean Basin Economic Recovery Expansion Act of 1990 (CBERA or CBI II). Amendments to the bill as introduced conformed the country designation criteria, rule-of-origin requirements, and the import relief and emergency relief authorities to the conditions and procedures for granting duty-free treatment under the CBI program. Certain preferential trade provi-

sions, as well as the tax benefits under the CBI program, are maintained for Caribbean Basin countries and are not extended to the Andean countries by the bill.

Total U.S. imports from the four Andean countries in 1990 were $5.4 billion, of which about $2.3 billion or 43 percent are currently duty-free (either under most-favored-nation or GSP treatment). About $324 million, or 6 percent of total imports from Andean countries, would be newly eligible for duty-free treatment under the Act. All four Andean countries are beneficiaries of duty-free treatment on eligible articles under the GSP program. The bill, however, creates greater certainty of duty-free benefits than GSP treatment subject to annual review.

SUMMARY OF H.R. 661, AS AMENDED

SECTION 1. SHORT TITLE

Section 1 provides a short title for the Act, the "Andean Trade Preference Act" (ATPA).

SECTION 2. AUTHORITY TO GRANT DUTY-FREE TREATMENT

Section 2 authorizes the President to proclaim duty-free treatment for all eligible articles from any beneficiary country in accordance with the provisions of the ATPA.

SECTION 3. BENEFICIARY COUNTRY

Section 3 authorizes the President to consider only Bolivia, Ecuador, Colombia, and Peru as beneficiary countries. Designation of a country as a beneficiary country is subject to 7 conditions, unless the President exercises national economic or security interest waiver authority. The President must also take into account 12 other factors in designating beneficiary countries. The President may withdraw or suspend beneficiary country status or duty-free treatment on any article if he determines the country should be barred from designation as a result of changed circumstances. The President must submit a triennial report to the Congress on the operation of the program.

SECTION 4. ELIGIBLE ARTICLES

Section 4 applies duty-free treatment to any eligible article the growth, product, or manufacture of a beneficiary country that meets specified rule-of-origin requirements, including a minimum 35 percent Andean content (which may include content from CBI beneficiary countries, Puerto Rico and the U.S. Virgin Islands, and up to 15 percent of U.S. content).

Exclusions from eligibility for duty-free treatment are textile and apparel articles subject to textile agreements; footwear; canned tuna; petroleum and petroleum products; certain watches and watch parts; certain leather products, which are subject to 20 percent duty reductions up to 2.5 percent ad valorem phased in over 5 years; sugar subject to over-quota tariffs; and rum. The President may suspend duty-free treatment in import relief or national security actions, or impose emergency relief on imports of agricultural

perishable products from Andean countries within 7 days after a recommendation from the Secretary of Agriculture.

SECTION 5. RELATED AMENDMENTS

The duty-free tourist allowance for U.S. residents returning from Andean beneficiary countries is increased from $400 to $600 and one additional liter of alcoholic beverages may enter duty-free if produced in an Andean beneficiary country.

SECTION 6. INTERNATIONAL TRADE COMMISSION REPORTS ON IMPACT OF THE ANDEAN TRADE PREFERENCE ACT

Section 6 requires the U.S. International Trade Commission (ITC) to submit an annual report to the Congress on the economic impact of the ATPA on U.S. industries and consumers and the effect of duty-free treatment on drug-related crop eradication and crop substitution by beneficiary countries.

SECTION 7. IMPACT STUDY BY SECRETARY OF LABOR

Section 7 requires the Secretary of Labor to make an annual report to the Congress on the impact of the ATPA on U.S. labor.

SECTION 8. EFFECTIVE DATE AND TERMINATION OF DUTY-FREE TREATMENT

Section 8 terminates duty-free treatment under the ATPA 10 years after the date of the enactment of the Act.

COMMITTEE ACTION

H.R. 661, the "Andean Trade Preference Act of 1991," was introduced on January 28, 1991, by Mr. Crane, Mr. Rangel, Mr. McGrath, Mr. Guarini, et al, reflecting the legislation proposed by the Administration.

On July 25, the Subcommittee on Trade held a public hearing on H.R. 661, receiving testimony in support of the legislation from the Administration and associations representing economic development, exporter, importer, and consumer interests. Domestic industry representatives and representatives of the Virgin Island and Puerto Rican governments testified or submitted written statements in opposition to preferential tariff treatment on certain products.

On September 24, the Subcommittee on Trade considered H.R. 661 in markup session and ordered the bill favorably reported to the full Committee on Ways and Means by voice vote, with amendments.

On November 19, the Committee on Ways and Means ordered H.R. 661 favorably reported to the House of Representatives by voice vote, with amendments.

SECTION-BY-SECTION ANALYSIS AND COMPARISON WITH PRESENT LAW

(Including comparison with the Caribbean Basin Initiative)

SECTION 1. SHORT TITLE

Section 1 of H.R. 661, as amended provides that the Act may be cited as the "Andean Trade Preference Act".

SECTION 2. AUTHORITY TO GRANT DUTY-FREE TREATMENT

Present law

Bolivia, Ecuador, Colombia, and Peru receive most-favored-nation, column 1 rate of duty treatment and are designated as beneficiary countries for duty-free treatment on eligible articles under the GSP program.

Explanation of provision

Section 2 of the bill authorizes the President to proclaim duty-free treatment for all eligible articles from any beneficiary country in accordance with the provisions of the ATPA. This authority applies only to normal column 1 rates of duty in the Harmonized Tariff Schedule of the United States (HTS); any additional duties imposed under U.S. unfair trade practice laws, such as the anti-dumping or countervailing duty laws, would not be affected by the authority.

SECTION 3. BENEFICIARY COUNTRY

Present law

The designation authority and criteria in section 3 of H.R. 661, as amended are identical to the mandatory and discretionary conditions that apply to the designation of CBI beneficiary countries under section 212 (b) and (c) of the CBERA, except that the CBI does not require taking into account whether the country has met the narcotics certification criteria for eligibility for U.S. foreign aid.

The withdrawal and suspension authorities and notification and reporting requirements in section 3 of the bill are also similar to provisions in section 212 of the CBERA.

Explanation of provision

Section 3 of the bill, as amended, contains the mandatory conditions and discretionary factors for designating beneficiary countries for duty-free treatment under the ATPA, withdrawal and suspension authorities, and Congressional notification and reporting requirements. Subsection (a) defines various terms used in the Act.

Subsection (b) authorizes the President to consider only the four Andean countries—Bolivia, Ecuador, Colombia, and Peru—for designation as beneficiary countries under the Act. Before designating any country, the President must notify the Congress of his intention to make the designation, together with the considerations entering into the decision.

Subsection (c) prohibits the President from designating a country as a beneficiary country—

(1) if the country is a Communist country;

(2) if the country has nationalized, expropriated or otherwise seized ownership or control of U.S. property, has taken steps to repudiate or nullify any existing contract or agreement with, or intellectual property of, a U.S. citizen or U.S. corporation, partnership, or association, the effect of which is to nationalize, expropriate, or seize ownership or control of such property, or has imposed or enforced taxes or other conditions or measures which have the same effect, unless the President determines that prompt, adequate, and effective compensation has been or is being made, good-faith negotiations to provide such compensation are in progress or the country is otherwise taking steps to discharge its obligations under international law, or a dispute over compensation has been submitted to arbitration, and the President promptly furnishes a copy of the determination to the Congress;

(3) if the country fails to act in good faith in recognizing as binding or in enforcing arbitral awards in favor of U.S. citizens or a U.S. corporation, partnership, or association;

(4) if the country affords preferential treatment to the products of a developed country other than the United States, and if such treatment has or is likely to have a significant adverse effect on U.S. commerce, unless the President has received and reports to the Congress satisfactory assurances that such treatment will be eliminated or action taken to assure no significant adverse effect;

(5) if a government-owned entity in the country engages in the broadcast of copyrighted material belonging to U.S. copyright owners without their express consent or the country fails to work toward the provision of adequate and effective protection of intellectual property rights;

(6) unless the country is a signatory to a treaty or other agreement regarding the extradition of U.S. citizens; and

(7) if the country has not or is not taking steps to afford internationally recognized worker rights to workers in the country.

The President may waive criteria (1), (2), (3), (5), and (7) if he determines that designation of the country will be in the national economic or security interest of the United States and reports that determination and the reasons therefor to the Congress.

In addition, in determining whether to designate a country as a beneficiary, the President must take into account factors enumerated in subsection (d)—

(1) an expression by the country of its desire to be designated;

(2) the economic conditions in the country, the living standards, and any other appropriate economic factors;

(3) the extent to which the country has assured the United States it will provide equitable and reasonable access to its markets and basic commodity resources;

(4) the degree to which the country follows accepted rules of international trade under the General Agreement on Tariffs and Trade (GATT) and applicable trade agreements concluded in the Tokyo Round of GATT multilateral trade negotiations;

(5) the degree to which the country uses export subsidies or imposes export performance or local content requirements which distort international trade;

(6) the degree to which the trade policies of the country as they relate to other beneficiary countries are contributing to the revitalization of the region;

(7) the degree to which the country is undertaking self-help measures to protect its own economic development;

(8) whether or not the country has taken or is taking steps to afford to workers in that country internationally recognized worker rights;

(9) the extent to which the country provides under its law adequate and effective means for foreign nationals to secure, exercise, and enforce exclusive intellectual property rights;

(10) the extent to which the country prohibits its nationals from engaging in the broadcast of copyrighted material belonging to U.S. copyright owners without their express consent;

(11) whether the country has met the narcotics cooperation certification criteria set forth in section 481(h)(2)(A) of the Foreign Assistance Act of 1961 for eligibility for U.S. assistance; and

(12) the extent to which the country is prepared to cooperate with the United States in the administration of the Act.

Subsection (e) authorizes the President to withdraw or suspend the designation of any beneficiary country or withdraw, suspend, or limit the application of duty-free treatment under the Act to any article of any country if he determines after designation that as a result of changed circumstances the country should be barred from designation as a beneficiary country. The President must publish at least 30-days advance notice in the Federal Register of the proposed action. Within this notice period, the U.S. Trade Representative shall accept written comments from the public and hold a public hearing on the proposed action.

Subsection (f) requires the President to submit to the Congress every 3 years a complete report on the operation of the ATPA, including the results of a general review of beneficiary countries based on the mandatory and discretionary considerations for designation under subsections (c) and (d).

One of the goals of the Act is to encourage countries that have been overly dependent on drug trade to develop new crops and new industries capable of competing in the world market. Creating growth opportunities in nondrug-related industries is the best way to combat this dependence on narcotics production. Consequently, in reporting on the considerations under subsection (d) of whether the country has met the narcotics cooperation certification criteria, the President shall report any evidence that drug-related crop eradication and substitution efforts by beneficiary countries are directly related to the effects of duty-free treatment under the Act.

SECTION 4. ELIGIBLE ARTICLES

Present law

The rule-of-origin requirements under section 4 of H.R. 661 for duty-free treatment under the ATPA are identical to the require-

ments under section 213(a) of the CBERA, except that CBI beneficiary country content may also be included toward the 35 percent minimum local content requirement for determining a product of an Andean country that can receive duty-free treatment under the ATPA.

Section 223 of the CBERA of 1990 (CBI II), provides that if the President considers that implementation of revised rules of origin for products of CBI beneficiary countries would be appropriate, he shall transmit such legislation to the Congress, after taking into account a report and recommendations of the ITC and advice from appropriate private sector advisory committees, the beneficiary country governments, the House Ways and Means and Senate Finance Committees, and other interested parties.

The product exclusions from eligibility for duty-free treatment and the duty reductions on imports of certain leather products under the ATPA are identical to the treatment of these articles under the CBI program, except that rum is eligible for duty-free treatment under the CBERA.

Additional U.S. Notes 2, 3, and 4 of Chapter 17 of the HTS provide the authority for the United States to impose duties or quotas on imports of sugars, syrups, and molasses. Presidential Proclamation 6179, signed on September 13, 1990, provided for the establishment of tariff-rate quotas on sugar imports beginning on October 1, 1990, to replace the system of absolute quotas which had been found in June 1989, to be in violation of GATT obligations. Under the tariff-rate quota system, the Secretary of Agriculture announces a quantity of sugar that will be subject to current tariff rates (the "lower tier" tariff rate), taking into account expected domestic production, expected domestic consumption, and the legal requirement that the domestic sugar program be run at no net cost to the Federal Government. This total amount authorized at the lower tier rate is then allocated by the U.S. Trade Representative on a country-by-country basis to sugar-exporting countries according to historical trade. Any additional quantities of sugar above these allocated amounts are subject to a tariff rate of 16 cents per pound, raw value (the "upper tier" tariff rate), which is actually a prohibitive duty. Beneficiary countries under the GSP or the CBI programs are eligible to receive duty-free treatment on the quantities of sugar permitted entry at the lower tier tariff rate. All four Andean countries currently have sugar import allocations subject to GSP duty-free treatment. While sugar, syrups, and molasses are not statutory exclusions from the CBI program, the actual duty treatment on these products under the ATPA would be the same as currently applies to imports from both CBI beneficiaries and the Andean countries.

The authorities in H.R. 661, as amended for granting import relief and emergency action on agricultural perishables are identical to provisions in the CBI program with respect to imports from Caribbean Basin countries. Similar emergency authority is also included in the U.S.-Israel Free Trade Area Implementation Act of 1985.

Explanation of provision

Section 4 of H.R. 661, as amended, contains the rule-of-origin requirements for duty-free treatment under the Act, the list of articles excluded from eligibility for such treatment, and authorities on import relief action and emergency measures for agricultural perishable products.

Rules of origin

Subsection (a) requires the application of duty-free treatment under the ATPA to any article, not otherwise excluded from eligibility, which is the growth, product, or manufacture of a beneficiary country if (1) that article is imported directly from a beneficiary country into the U.S. customs territory; and (2) the sum of (a) the cost or value of materials produced in one or more Andean beneficiary countries or one or more CBI beneficiary countries, plus (b) the direct costs of processing operations performed in one or more Andean or CBI beneficiary countries is not less than 35 percent of the appraised value of the article. Puerto Rico and the Virgin Islands are also considered beneficiary countries for this purpose. Not more than 15 percent of the appraised value of the article that is attributable to the cost or value of materials produced in the United States (other than Puerto Rico) may be applied toward the 35 percent minimum local content requirement.

The Secretary of the Treasury must prescribe regulations necessary to carry out the rule-of-origin requirements, including provisions that, in order to be eligible for duty-free treatment under the ATPA, an article must be wholly the growth, product, or manufacture of a beneficiary country, or must be a new or different article of commerce (substantially transformed) which has been grown, produced, or manufactured in the beneficiary country. No article or material can be eligible for duty-free treatment by merely undergoing simple combining or packaging operations, or mere dilution with water or another substance that does not materially alter the characteristics of the article. "Direct costs of processing operations" are defined and do not include costs which are not directly attributable to the merchandise or are not costs of manufacturing the product.

The President is authorized to include revised rules of origin for duty-free treatment under the ATPA similar to revised rules for CBI duty-free treatment in any suggested legislation submitted to the Congress pursuant to section 223 of the CBERA of 1990.

Product exclusions from duty-free treatment

As provided under subsection (b), duty-free treatment under H.R. 661, as amended, does not apply to (1) textiles and apparel articles, which are subject to textile agreements; (2) footwear not designated eligible for duty-free treatment under the GSP program; (3) canned tuna; (4) petroleum or petroleum products; (5) watches and watch parts if they contain any material the product of any country subject to column 2 rates of duty; (6) certain leather goods subject to duty reductions under the ATPA; (7) sugars, syrups, and molasses subject to over-quota rates of duty; and (8) rum.

The exclusion of high-tariff sugar from eligibility for duty-free treatment maintains the current dutiable status of any over-quota imports from the Andean countries and is consistent with the treatment accorded such imports under the CBI program.

The Committee urges the U.S. Department of Agriculture (USDA) to work together with the Bolivian Government to determine whether the Bolivian sugar allocation was accurately calculated in 1982, when the United States instituted sugar import quotas. The Bolivian Government maintains that a statistical error caused an underestimation of their percentage quota allotment by about 33 percent. The Committee urges USDA to move expeditiously to complete its review of the relevant information and if it is determined that an error was made in the calculation, USDA should recalculate Bolivia's sugar quota allocation and, if feasible, add the lost tonnage to future quota allotments. More than any aid package, further export opportunities for Bolivia will help the developing economy to encourage democratic institutions and market principles while simultaneously combating drug trafficking.

The Committee added rum to the list of articles that would be ineligible for duty-free treatment under the Act in order to preserve the benefits that the Congress has provided to Puerto Rico, the Virgin Islands, and the Caribbean Basin countries. Rum is a product which the ITC has identified as benefiting most from duty-free treatment under the CBI. CBI countries account for 90 percent of total U.S. rum imports. Revenues from the rum industry and rebates of federal excise taxes on U.S. rum imports are significant components of the Puerto Rican and Virgin Islands budgets. Representatives of their governments have expressed serious concerns about the potential impact of granting duty-free treatment to Andean rum. Andean rum producers have significant natural resource and cost advantages over their Caribbean and U.S. Territorial counterparts as well as large excess production capacity. The Committee also notes that the Administration has denied petitions, including a petition by Colombia in 1990, for duty-free preferential treatment on rum under the GSP program.

Under subsection (c), the President shall proclaim duty reductions on handbags, luggage, flat goods, work gloves, and leather wearing apparel that are the product of an Andean beneficiary country and were not designated eligible as of August 5, 1983 for GSP duty-free treatment. Rate reductions on each article are 20 percent, not to exceed 2.5 percent ad valorem, to be implemented in 5 equal annual stages beginning January 1, 1992. Reductions are in addition to any rate reductions that may be proclaimed by the President to carry out an Uruguay Round trade agreement, except that if the proclaimed reduction is less than 1.5 percent ad valorem the aggregate reductions cannot exceed 3.5 percent ad valorem, or if the proclaimed reduction is 1.5 percent ad valorem or greater, the aggregate reductions may not exceed the proclaimed reduction plus 1 percent ad valorem.

Import relief; emergency relief

Subsection (d) authorizes the President to suspend duty-free treatment and proclaim a duty rate on any eligible article if the action is proclaimed as import relief under the Trade Act of 1974,

or for national security reasons under section 232 of the trade Expansion Act of 1962. In any report to the President on an import relief investigation involving an eligible article subject to duty-free treatment under the ATPA, the ITC must state whether and to what extent its injury findings and remedy recommendations apply to imports of the article from beneficiary countries. Suspension of ATPA duty-free treatment cannot be the sole remedy unless the ITC determines in its investigation that the serious injury or threat thereof to the domestic industry results from such treatment.

Any import relief action in effect when ATPA duty-free treatments proclaimed shall remain in effect until modified or terminated. The President may reduce or terminate import relief action on imports from Andean beneficiary countries prior to the scheduled date pursuant to criteria and procedures under the import relief statute.

Subsection (e) provides an emergency relief procedure for perishable agricultural products (as defined in the Act). If a petition is filed with the ITC for import relief regarding a perishable product alleging injury from imports from Andean beneficiary countries, the petition may also be filed with the Secretary of Agriculture with a request for emergency relief. Within 14 days after the filing, if the Secretary has reason to believe that a perishable product from a beneficiary country is being imported in such increased quantities as to be a substantial cause of serious injury or threat thereof to the domestic industry and that emergency action is warranted, he shall advise the President and recommend such action, or the Secretary will publish notice and advise the petitioner of a determination not to recommend emergency action. Within 7 days after receiving a recommendation from the Secretary, the President must proclaim the withdrawal of duty-free treatment or publish notice of his determination not to take emergency action.

Emergency action ceases to apply upon the taking of normal import relief action, a final determination by the President not to take import relief action, an ITC import relief report to the President containing a negative injury finding, or whenever the President determines that because of changed circumstances emergency relief is no longer warranted.

As provided under subsection (f), no proclamation under the ATPA shall affect fees imposed pursuant to section 22 of the Agricultural Adjustment Act of 1933.

SECTION 5. RELATED AMENDMENTS

Present law

Note 4 and tariff items under subchapter IV of chapter 98 of the Harmonized Tariff Schedule provide a duty-free tourist allowance to returning U.S. residents arriving directly or indirectly from foreign countries (including Andean countries) of $400, or $600 in the case of CBI beneficiary countries. U.S. residents returning from U.S. insular possessions have a duty-free allowance of $1,200. In addition, U.S. residents returning from foreign countries may bring in not more than one liter of alcoholic beverages duty-free and excise-tax free; residents returning form CBI beneficiary countries

may enter one additional liter duty-free if produced in a CBI beneficiary country.

General Note 3(a)(iv) of the HTS provides that goods imported from U.S. insular possessions shall receive no less favorable duty treatment than accorded to eligible articles imported from beneficiary countries under the GSP or CBI programs.

Explanation of provision

Section 5 of H.R. 661, as amended, includes provisions on duty-free tourist allowances and the treatment of products from U.S. insular possessions.

Subsection (a) amends Note 4 to subchapter IV of chapter 98 of the HTS to increase the duty-free tourist allowances for U.S. residents returning directly or indirectly from Andean beneficiary countries to the same levels as presently apply to residents returning from CBI beneficiary countries, i.e., an increase from $400 to $600 and duty-free treatment for one additional liter of alcoholic beverages if produced in an Andean country.

Subsection (b) amends General Note 3(a)(iv) of the HTS to provide that goods imported from U.S. insular possessions will receive duty treatment no less favorable than the treatment afforded such goods imported from a beneficiary country under the ATPA.

SECTION 6. INTERNATIONAL TRADE COMMISSION REPORTS ON IMPACT OF THE ANDEAN TRADE PREFERENCE ACT

Present law

Section 215 of the CBERA requires an annual report by the ITC with respect to the economic impact of duty-free treatment under the CBI program on U.S. industries and consumers.

Explanation of provision

Section 6 of the bill as amended requires the ITC to prepare and submit to the Congress a report on the economic impact of the ATPA on U.S. industries and consumers and on the effectiveness of duty-free treatment in promoting drug-related crop eradication and crop substitution efforts of the beneficiary countries. This report will be made on the impact during the first two years after enactment of the Act and annually thereafter until duty-free treatment terminates. Each report will include assessments of both the actual and probable future effects of the Act on the U.S. economy generally and on specific domestic industries. The assessment of the impact of the Act in promoting drug-related crop eradication and substitution efforts will be made in conjunction with other U.S. Government agencies and utilize information and data that they collect, but the assessment should focus specifically on the impact of duty-free treatment on such efforts. The ITC will provide an opportunity for the public to submit information relevant to the reports.

SECTION 7. IMPACT STUDY BY SECRETARY OF LABOR

Present law

Section 216 of the CBERA requires the Secretary of Labor to undertake the same review and analysis of the impact of the CBI program on U.S. labor as section 7 of H.R. 661, as amended, requires for duty-free treatment under the ATPA.

Explanation of provision

Section 7 of the bill requires the Secretary of Labor to undertake a continuing review and analysis of the impact of the ATPA on U.S. labor and to make an annual written report to the Congress on the results of the review and analysis.

SECTION 8. EFFECTIVE DATE AND TERMINATION OF DUTY-FREE TREATMENT

The ATPA takes effect on the date of enactment. No duty-free treatment under the Act shall remain in effect 10 years after the date of enactment.

MATTERS REQUIRED TO BE DISCUSSED UNDER THE RULES OF THE HOUSE

VOTE OF THE COMMITTEE IN REPORTING THE BILL

In compliance with clause 2(l)(2)(B) of rule XI of the Rules of the House of Representatives, the following statement is made relative to the vote of the Committee in reporting the bill: H.R. 661 was ordered favorably reported by the Committee by voice votes, with amendments.

OVERSIGHT FINDINGS

In compliance with clause 2(l)(3)(A) of rule XI of the Rules of the House of Representatives relating to oversight findings, the Committee reports, on the basis of its public hearings, representations by officials of the beneficiary country governments, and review of the operation of the similar Caribbean Basin Initiative program, that the trade benefits authorized under H.R. 661, as amended, will encourage economic alternatives to illegal narcotics production while safeguarding the interests of U.S. domestic industries.

In compliance with clause 2(l)(3)(D) of rule XI of the Rules of the House of Representatives, the Committee states that no oversight findings or recommendations have been submitted to this Committee by the Committee on Government Operations with respect to the provisions contained in this bill.

BUDGETARY AUTHORITY AND COST ESTIMATES, INCLUDING ESTIMATES OF THE CONGRESSIONAL BUDGET OFFICE

In compliance with clause 2(l)(3)(B) of rule XI of the Rules of the House of Representatives, the Committee states that there are no tax expenditures or new budgetary authority providing financial assistance to State and local governments in the bill. Regarding the application of the provisions for sequestration under the Balanced Budget and Emergency Deficit Control Act of 1985, the Committee

notes that it has received the following letters from the Director of the Office of Management and Budget:

EXECUTIVE OFFICE OF THE PRESIDENT,
OFFICE OF MANAGEMENT AND BUDGET,
Washington, DC, November 18, 1991.

Hon. DAN ROSTENKOWSKI,
Chairman, Committee on Ways and Means,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: We have what I understand to be a shared interest in enactment of pending Baltic, Soviet, and Andean trade agreements. We also share an interest in assuring that the enactment of these agreements would not trigger a sequester.

With our common interest in view, and given what now appears to be a realistic prospect that Congress will recess before Thanksgiving, I wish to bring the following to your attention. Based on legislation enacted to date, OMB would officially estimate in the end-of-session Sequestration Report that the pay-as-you-go balance is positive for each of the fiscal years 1992 through 1995. This positive current balance is now sufficient to offset what OMB estimates to be the pay-as-you-go costs of the pending trade agreements. Therefore, if these trade agreements were enacted promptly, while the pay-as-you-go balance is positive, their enactment would not trigger a sequester under the Budget Enforcement Act.

It is, of course, possible that other legislation might be enacted which would turn the pay-as-you-go balance negative. But I know of no such legislation that we are now supporting that is likely to be enacted before the session ends. If unforeseen legislation were enacted that turned the balance negative, a sequester would be triggered unless the imbalance were corrected. But in that hypothetical circumstance, I can assure you that we would not (and we could not fairly) attribute the cause of the sequester to the enactment of the trade agreements—provided their enactment occurred while the pay-as-you-go balance were sufficient to offset them.

For these reasons, I would again urge the enactment of the pending trade agreements—now, while the pay-as-you-go balance is a sufficient offset—and will continue to work with you to that end.

With best regards,

RICHARD DARMAN,
Director.

EXECUTIVE OFFICE OF THE PRESIDENT,
OFFICE OF MANAGEMENT AND BUDGET,
Washington, DC, November 19, 1991.

Hon. DAN ROSTENKOWSKI,
Chairman, Committee on Ways and Means,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: This note is simply to confirm two matters of scoring with the prospect of enactment of H.R. 1724 now in view.

We have not yet completed the final out-year scoring of P.L. 102–164, the Emergency Unemployment Compensation Act of 1991.

Nonetheless, it is clear that enactment of H.R. 1724 would not change two conclusions I recently shared with you:

(1) by letter of November 13, 1991—the conclusion that enactment of the unemployment insurance compromise (now including H.R. 1724 as passed by the Senate) would not trigger a sequester; and

(2) by letter of November 18, 1991—the conclusion that OMB's current estimate of the pay-as-you-go surplus (after enactment of the compromise) is sufficient to offset certain pending trade agreements that are in the United States interest.

With best regards,

RICHARD DARMAN,
Director.

In compliance with clause 2(l)(3)(C) of rule XI of the rules of the House of Representatives, the Committee agrees with cost estimates furnished by the Congressional Budget Office on H.R. 661 and required to be included herein:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, November 19, 1991.

Hon. DAN ROSTENKOWSKI,
Chairman, Committee on Ways and Means,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has reviewed H.R. 661, the Andean Trade Preferences Act, as ordered reported by the House Committee on Ways and Means on November 19, 1991. Based on information from the International Trade Commission (ITC), CBO estimates that enactment of H.R. 661 would decrease federal government revenues by $16 million each year for fiscal years 1992 through 1996.

At present, the Andean nations of Bolivia, Colombia, Ecuador, and Peru are beneficiaries of the Generalized System of Preferences (GSP), which offers nonreciprocal tariff preferences to developing countries. Much like the Carribbean Basin Initiative for Caribean counties, H.R. 661 would grant duty-free treatment on specified products to these Andean nations as long as the countries fulfill certain conditions. For instance, the President cannot declare a communist country as a beneficiary under the bill.

Only certain products are eligible for duty-free treatment under the bill. In order to qualify for duty-free treatment, goods must meet certain rule-of-origin requirements: at least 35 percent of the appraised value of the import must be added in one or more Andean or Caribbean Basin Initiative beneficiary countries. The bill excludes from duty-free treatment several groups of commodities, including textile and apparel articles, footwear not eligible for duty-free treatment under GSP, certain leather goods, rum, and petroleum and petroleum products.

In addition to offering duty-free treatment to many of the goods imported from Bolivia, Colombia, Ecuador, and Peru, H.R. 661 also would increase from $400 to $600 the value of products from these countries that individuals can bring into the United States duty-free.

Because H.R. 661 would eliminate the tariff on many goods that enter the U.S., customs duty collections would be lower than they would have been without the enactment of H.R. 661. Based on information from the ITC, CBO estimates that enactment of H.R. 661 would decrease revenues by $16 million each year for fiscal years 1992 through 1996. The effect on revenues of H.R. 661 in 1993 through 1996 is assumed to be the same as in 1992 in the absence of sufficient information on the future supply of goods from Bolivia, Colombia, Ecuador, and Peru. The bill would affect receipts and thus would be subject to pay-as-you-go procedures under Section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985. As a result, the estimate required under Clause 8 of House Rule XXI also is attached.

PAY-AS-YOU-GO CONSIDERATIONS

[By fiscal year, in millions of dollars]

	1992	1993	1994	1995
Changes in outlays	(1)	(1)	(1)	(1)
Changes in receipts	−16	−16	−16	−16

[1] Not applicable.

If you wish further details, please feel free to contact me or your staff may wish to contact John Stell at 226–2720.

Sincerely,

ROBERT D. REISCHAUER,
Director.

CONGRESSIONAL BUDGET OFFICE ESTIMATE [1]

The applicable cost estimate of this Act for all purposes of sections 252 and 253 of the Balanced Budget and Emergency Deficit Control Act of 1985 shall be as follows:

[By fiscal year, in millions of dollars]

	1992	1993	1994	1995
Changes in outlays	(1)	(1)	(1)	(1)
Changes in receipts	−16	−16	−16	−16

[1] Not applicable.

INFLATIONARY IMPACT

In compliance with clause 2(l)(4) of rule XI of the Rules of the House of Representatives, the Committee states that the provisions of the bill are not expected to have any inflationary impact on the economy.

[1] An estimate of H.R. 661, as ordered reported by the House Committee on Ways and Means on November 19, 1991. This estimate was transmitted by the Congressional Budget Office on November 19, 1991.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of rule XIII of the rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

HARMONIZED TARIFF SCHEDULE OF THE UNITED STATES

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GENERAL NOTES

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3. *Rates of Duty.* The rates of duty in the "Rates of Duty" columns designated 1 ("General" and "Special") and 2 of the tariff schedule apply to goods imported into the customs territory of the United States as hereinafter provided in this note:

(a) *Rate of Duty Column 1.*

(i) * * *

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(iv) *Products of Insular Possessions.*

(A) * * *

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(E) Subject to the provisions in section 4 of the Andean Trade Preference Act, goods which are imported from insular possessions of the United States shall receive duty treatment no less favorable than the treatment afforded such goods when they are imported from a beneficiary country under such Act.

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CHAPTER 98—SPECIAL CLASSIFICATION PROVISIONS

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Subchapter IV—Personal Exemptions Extended to Residents and Nonresidents

U.S. Notes

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4. As used in subheadings 9804.00.70 and 9804.00.72, the term "beneficiary country" means a country listed in general note 3(c)(v)(A) *or a country designated as a beneficiary country under the Andean Trade Preference Act.*

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